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C. Shiff
PATENT 2/26/91
Atty. Docket No. 2303.2B

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANT : David H. Gelfand et al.
SERIAL NO. : 07/387,003 GROUP ART: 188
FILED : July 28, 1989 EXAMINER: D. Naff
DOCKET NO. : 2303.2B
TITLE : PURIFIED THERMOSTABLE ENZYME

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GROUP 100

DECLARATION UNDER 37 C.F.R. §1.131

Hon. Commissioner of Patents and Trademarks
Washington, D.C. 20231

Sir:

I, David H. Gelfand, am a co-inventor of the above-captioned application. I am familiar with the Office Action mailed September 4, 1990, in which Examiner rejected the claims of this application over the MBR product information sheet of June 8, 1987. Prior to May 1, 1987, my co-workers and I reduced the claimed invention to practice in the United States. Evidence of our reduction to practice is shown by the attached letter and accompanying enclosure.

The letter, addressed to Dr. James F. Wick of MBR, shows that, prior to May 1, 1987, I had sent to MBR a detailed description of our Taq polymerase purification protocol, including a description of a stabilized enzyme composition of the present claims. The protocol attached to the letter clearly shows that the stable enzyme compositions of the present invention were reduced to practice and shown to MBR well before the date of the product information sheet.

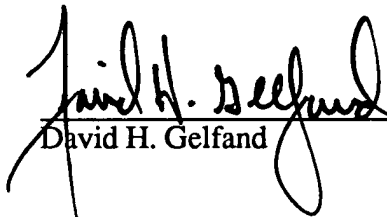
Examiner's attention is drawn to page one of the protocol, under "Polymerase Assay," where, at point six, the composition of the enzyme diluent is given. The diluent contains non-ionic detergent. In addition, at the very last page of the protocol, Examiner will note that the composition of 2X storage buffer, shown in the last four lines of the last page, also contains non-ionic detergent.

I believe that the attached letter and protocol clearly show that my co-inventors and I had reduced the claimed invention to practice well before the date of the MBR product sheet, and I further believe that MBR derived the information on the product information sheet from the

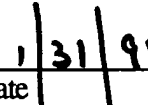
*I herby certify that this correspondence is
being deposited with the United States Postal
Service as first class mail in an envelope
addressed to: Commissioner of patents and
Trademarks, Washington, D.C. 20231, on
this 8 day of Feb., 1991
By David H. Gelfand*

materials accompanying this declaration, which were sent to MBR before May 1, 1987, and well before the date of the MBR product information sheet.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing hereon.



David H. Gelfand



Date